



COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

August 4, 2003

Maria M. Oms
Auditor-Controller
Lloyd W. Pellman
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Loraine Torres, Cynthia Torres, a minor, by and through her
Guardian Ad Litem, Delia Segura, Yvonne Benavidez, Henry
Torres, Sr., Ray and Mary Benavidez v. County of Los Angeles**
Los Angeles Superior Court Case No. TC 014 740

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$250,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Sheriff's Department.

Enclosed is the settlement request and a summary of the facts of the case.

The Litigation Report, including the Corrective Action Report, is being transmitted to you under separate cover by the Sheriff's Department.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO/fsl

Enclosure

MEMORANDUM

July 29, 2003

TO: LOS ANGELES COUNTY CLAIMS BOARD

FROM: MICHAEL THOMAS, Esq.
Law Offices of Michael Thomas

OWEN L. GALLAGHER
Principal Deputy County Counsel

RE: Loraine Torres, Cynthia Torres, a minor by and through her
Guardian Ad Litem, Delia Segura, Yvonne Benavidez, Henry Torres,
Sr., Ray and Mary Benavidez v. County of Los Angeles
Los Angeles Superior Court Case No. TC014740

DATE OF
INCIDENT: November 20, 2000, through January 1, 2001

AUTHORITY
REQUESTED: \$250,000

COUNTY
DEPARTMENT: SHERIFF'S DEPARTMENT

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☐

Recommend to Board of
Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
LLOYD W. PELLMAN

_____, Auditor-Controller
MARIA M. OMS

on _____, 2003

SUMMARY

This is a recommendation to settle for \$250,000 the wrongful death lawsuit brought by Loraine Torres (wife), and Cynthia Torres (minor daughter) for the death of Henry Torres, Jr., while an inmate in the Men's Central Jail on January 1, 2001.

LEGAL PRINCIPLES

The County is liable for failure of its jail and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered, and the failure to provide a prisoner immediate medical care for a serious medical condition. If the failure is found to be the result of a policy or practice of deliberate indifference to the serious medical needs of jail inmates, the County may be liable for a violation of the Federal Civil Rights Act and responsible for the individual's attorneys' fees for bringing the lawsuit.

SUMMARY OF FACTS

On October 19, 2000, Henry Torres, a 31-year-old man, was taken into custody by the Los Angeles County Sheriff's Department at the Norwalk Superior Court on charges of possession of controlled substances. He was then transferred to the Sheriff's Department's Inmate Reception Center, and given a medical screening examination. During the medical screening examination, Henry Torres advised medical personnel that he suffered from a recurring disorder of the lungs in which there is a narrowing of the airways (asthma). It was also noted that Henry Torres had a history of alcohol and heroin abuse.

On October 23, 2000, Henry Torres was transferred to the North County Correctional Facility.

On October 25, 2000, Henry Torres advised medical personnel at the North County Correctional Facility that, prior to his arrest, he had swallowed a piece of a plastic grocery bag containing drugs, and was having difficulty in breathing. X-rays were taken of Henry Torres' neck to eliminate the possibility of a foreign body in his trachea or in the breathing passages of his lungs. Results of these x-rays did not indicate the presence of a foreign body within the trachea.

On October 26, 2000, Henry Torres again complained of difficulty in breathing. An x-ray was taken of Henry Torres' chest, but it did not indicate the presence of any disease process.

On November 8, 2000, Henry Torres was transferred to Men's Central Jail.

On November 9, 2000, the Los Angeles Superior Court issued an order advising the Sheriff's Department that Henry Torres was suffering from asthma and a severe cough, and that

Henry Torres felt that something was lodged in this throat. The order recommended that Henry Torres be seen by an ear, nose, and throat (ENT) specialist. The medical record does not document that the Sheriff's Department ever received this order.

On November 14, 2000, the Superior Court issued a second order asking the Sheriff's Department to inspect Henry Torres' throat for a blockage that might be interfering with his breathing. This order was received by the Health Information Management unit of the medical records section of the Sheriff's Department at Men's Central Jail on November 20, 2000. Although Henry Torres was at Men's Central Jail, the Court order was sent to the North County Correctional Facility for further action.

On December 12, 2000, the Superior Court issued a third order asking the Sheriff's Department to examine Henry Torres' for any obstruction in his throat.

On December 15, 2000, Henry Torres was transferred to the Century Regional Detention Facility.

On December 19, 2000, the third order of the Superior Court was received by the Health Information Management unit of the medical records section of the Sheriff's Department at Men's Central Jail. On December 22, 2000, this order was sent to the Century Regional Detention Facility for further action.

On December 26, 2000, the Superior Court issued a fourth order asking the Sheriff's Department to insert a flexible fiber optic instrument (endoscope) into Henry Torres' air passage in order to eliminate the possibility of an obstruction interfering with his breathing. On December 27, 2000, this order was received by the Health Information Management unit of the medical records section of the Sheriff's Department at Men's Central Jail. However, this order was not sent to the Century Regional Detention Facility for further action.

On December 27, 2000, Henry Torres was examined by medical personnel at the Century Regional Detention Facility in response to the third order of the Superior Court issued on December 12, 2000. Although an x-ray of his chest was ordered, the x-ray was not performed until December 29, 2000. The results of this x-ray were interpreted as indicating an inflammation of the mucous membranes of Henry Torres' breathing passages (bronchitis).

On January 1, 2001, at 10:40 a.m., Henry Torres was found unresponsive and without a pulse. Restoration of heart and lung function using artificial respiration and manual chest compression (cardiopulmonary resuscitation [CPR]) was initiated, and paramedics were summoned. Upon their arrival, paramedics made three attempts to insert a breathing tube (endotracheal [ET] tube) through Henry Torres' mouth, past the voice box to the breathing passages of the lungs (endotracheal intubation). However, they were unsuccessful.

At 11:05 a.m., Henry Torres was seen in the Emergency Room at King/Drew Medical Center suffering from a complete cessation of breathing and heart function (cardiopulmonary

arrest). Restoration of heart and lung function using artificial respiration and manual closed chest compression (cardiopulmonary resuscitation [CPR]) was initiated, but he could not be resuscitated. Henry Torres was pronounced dead at 11:45 a.m.

An autopsy performed by the Los Angeles County Coroner attributed the cause of death to an inability to breathe (asphyxia) due to an abnormal closure (stenosis) of the breathing passage caused by the presence of a one-inch plastic syringe cap which was lodged in Henry Torres' throat.

DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Loraine Torres,	
Loss of Future Support	\$ 396,000
Loss of Care, Comfort and Companionship	\$ 250,000
Cynthia Torres,	
Loss of Future Support	\$ 396,000
Loss of Care, Comfort and Companionship	\$ 250,000
Civil Rights Attorneys Fees	<u>\$ 500,000</u>
TOTAL	\$1,792,000

The proposed settlement includes:

Loraine Torres,	
Loss of Care, Comfort and Companionship	\$125,000
Cynthia Torres,	
Loss of Care, Comfort and Companionship	<u>\$125,000</u>
TOTAL	\$250,000

STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through June 27, 2003, are attorneys fees of \$34,199.30 and \$14,476.63 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$250,000.00
County Attorneys Fees and Costs	\$ <u>48,675.93</u>
TOTAL	\$298,675.93

EVALUATION

Medical experts will be critical of the failure of jail and medical personnel to respond timely to the Superior Court's orders of November 9, 2000, November 14, 2000, December 12, 2000, and December 26, 2000, and their failure to timely diagnose the existence of a plastic syringe cap in Henry Torres' throat. These failures fell below the standard of care and are directly responsible for the results observed here.

The failure of Sheriff's Department and medical personnel to respond to the Los Angeles County Superior Court's orders may subject the County to a determination that medical personnel failed to provide a prisoner immediate medical care for a serious medical condition, which would not be limited by the Medical Injury Compensation Reform Act (MICRA), making the County responsible for the individual's attorneys' fees for bringing the lawsuit.

We join with our private counsel, Law Offices of Michael Thomas, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$250,000.

The Sheriff's Department concurs in this settlement.